

1 The Honorable Ricardo S. Martinez
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10 UNITED STATES DISTRICT COURT FOR THE
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE
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15 UNITED STATES OF AMERICA,

16 Plaintiff

17 v.

18 TARAY LAVALE DAVID,

19 Defendant

20 NO. CR17-004 RSM

21 ORDER DENYING DEFENDANT'S
22 MOTION FOR RECONSIDERATION

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24 This matter comes before the Court on the Defendant's Motion for
25 Reconsideration (Dkt. 160). Having considered the entire record in this matter and being
26 fully advised, the Court DENIES the motion.

27 The new materials submitted by the defense do not change the Court's analysis of
28 the evidence or its findings that Sergeant Anh Hoang's testimony is credible and reliable,
29 that B.C.'s initial statements in her 911 call (Gov't Ex. 1) and to Sergeant Hoang (Gov't
Ex. 6A) while she was under the stress of a traumatic and startling event are credible and
30 reliable, and that B.C.'s subsequent inconsistent statements to Detective Rios and
31 Defense Investigator Echeverria are not credible or reliable. The new evidence and
32 argument that Defendant submitted also does not change the court's conclusion that the
33 government has shown by a preponderance of the evidence that defendant possessed a
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1 firearm in violation of the terms of his supervised release. The declaration and
2 photographs do not have either sufficient detail or indicia of reliability for the Court to
3 conclude that they fairly and accurately depict the damage to B.C.'s tire on March 27,
4 2021, or the condition of the tire when it was replaced.

5 The Court incorporates its oral findings and conclusions as stated at the
6 evidentiary hearing, including its conclusion that the balance of defendant's due process
7 rights against B.C.'s invocation of her Fifth Amendment rights and resultant
8 unavailability weighed in favor of the Court admitting Government Exhibits 1 and 6A,
9 while also considering B.C.'s subsequent contradictory and impeaching statements to
10 Detective Rios and Defense Investigator Echeverria. Defendant's new submissions do
11 not change that balance.

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13 IT IS SO ORDERED this 2nd day of August, 2021.
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17 RICARDO S. MARTINEZ
18 CHIEF UNITED STATES DISTRICT JUDGE
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